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**HARRIS BEACH** PLLC  
ATTORNEYS AT LAW

September 6, 2024

THE OMNI  
333 EARLE OVINGTON BLVD, SUITE 901  
UNIONDALE, NEW YORK 11553  
516.880.8484

**VIA ECF**

**MEMORANDUM ENDORSED**

The Hon. Gregory H. Woods  
United States District Judge  
United States District Court  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

**ROY W. BREITENBACH**  
MEMBER  
DIRECT: 516.880.8378  
FAX: 516.880.8483  
RBREITENBACH@HARRISBEACH.COM

RE: *Gordon Surgical Group, P.C. v. Empire Healthchoice HMO, Inc.*, 1:21-cv-04796-GHW-KHP

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Dear Judge Woods:

We represent the Plaintiffs in this lawsuit. On June 13, 2024, the Court entered an Order dismissing Plaintiffs' claims except those involving one singular healthcare plan in a singular given year, without prejudice to refile, and set Plaintiffs' deadline to file a third amended complaint to July 31, 2024. By Order entered July 24, 2024, the Court extended this deadline to September 6, 2024.

Plaintiffs are prepared to file their third amended complaint by the current deadline. Per the Court's June 13, 2024 Order, this third amended complaint will assert claims involving one singular ERISA healthcare plan in a singular given year. However, the Court's June 13, 2024 Order also provides that, once this third amended complaint is filed, the remaining claims in this lawsuit are dismissed with leave to refile in separate actions. Based on our analysis of the remaining claims, and the Court's various decisions in this lawsuit, we anticipate filing at least 25 additional actions to assert these other claims. We also believe that, to eliminate any issues regarding potential loss of the June 1, 2021 commencement date for these other claims for statute of limitations purposes, all these additional actions should be filed simultaneously with the third amended complaint. Given the number of additional lawsuits being commenced, this has proven very difficult logistically to accomplish, particularly because, at the same time, we are reviewing these claims with our clients to identify and determine which claims still should be pursued and which should not.

The Hon. Gregory H. Woods  
September 6, 2024  
Page 2

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For these reasons, and with Defendant's consent, we respectfully request a final 30-day extension of this filing deadline – to October 7, 2024 – to file the third amended complaint, and all other additional actions based on the claims in this lawsuit. This deadline was extended by Court

Very truly yours,

**HARRIS BEACH PLLC**



Roy W. Breitenbach


RWB:mtf

cc: Valerie Sirota, Esq.  
Meaghan T. Feenan, Esq.

Application granted. Plaintiffs' application for an extension of time to file a third amended complaint, Dkt. No. 108, is granted. The deadline for Plaintiffs to file a third amended complaint is extended to October 7, 2024. The Clerk of Court is directed to terminate the motion pending at Dkt. No. 108.

SO ORDERED.

Dated: September 6, 2024  
New York, New York

  
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GREGORY H. WOODS  
United States District Judge